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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,087	10/17/2003	Peter S. Duke	1888646	9076
22824	7590	02/15/2005	EXAMINER	
DONALD R. SCHOONOVER 4211 ROLLING HILLS DRIVE NIXA, MO 65714-8771			KIM, AHSHIK	
			ART UNIT	PAPER NUMBER
			2876	

DATE MAILED: 02/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

CT

Office Action Summary	Application No. 10/687,087	Applicant(s) DUKE, PETER S.	
	Examiner Ahshik Kim	Art Unit 2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/17/03 (Initial filing of application).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-6 is/are allowed.
- 6) ☒ Claim(s) 7-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. Figure 2 appears to be informal. On the initial transmittal form, it was not indicated
5 whether the drawing was formal or informal drawing. If submitted drawing were formal,
Applicant is respectfully suggested to state that in response to this Office Action. Otherwise,
formal drawing is required.

Specification

- 10 2. The abstract of the disclosure is objected to because of following informalities: Re
Abstract, line 6: delete “or the like” or substitute it with “and other communication channels” or
variations thereof. The phrase “and other communication channels” is Examiner’s suggestion,
and should be considered as an example. Please avoid the legal phrase such as “means” and
indefinite term “or the like”.

15 Correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the
basis for the rejections under this section made in this Office action:

20 A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on
sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 7-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Brown (US
25 6,240,393, hereinafter “Brown”).

Art Unit: 2876

Brown discloses a method and system for aggregating and pooling information (see abstract), particularly to relating to weight management embodiment (col. 1, lines 15+; col. 1, lines 62+). Each person reports his/her weight using the client device 110 which can have additional peripheral device such as a scale (col. 4, lines 1+), which reports the individual's weight over the Internet (col. 4, lines 24+). The server collects transmitted information via modem into a database (col. 4, lines 36+), which stores individual's information. The server and individual devices can exchange message whether they are acknowledging nature (that the information was received) or broadcast type of message. The reporting of weight can be arranged to be for a specific period or the device's prompt (col. 2, lines 5+). Reporting the individual's weight itself can be a self-motivating/encouraging event or stressful event.

Allowable Subject Matter

5. Claims 1-6 are allowed.
6. The following is a statement of reasons for the indication of allowable subject matter: the claims are directed a method for controlling a person's weight. As disclosed in cited and other (cited but not used) references, the method and the system for controlling person's weight is generally known in the art as the number of obese and overweight people increases. However, the cited references, taken alone or in combinations, fail to suggest or teach the method of controlling person's weight as specifically disclosed in the claims. The method includes individual's device and central server communicating with each other; the central sever keeps track of individuals information; and keeping a record of personal, physical/physiological

Art Unit: 2876

information and activity information such as vacation for generating reminder communication as set forth in the claims.

Conclusion

5 I. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Hikita (US 4,509,608); Brown (US 6,240,393); Dugan (US 6,811,516); Teller et al. (US 6,605,038); US 2003/0187683 (Kirchhoff et al.) disclose weight-control system and devices. Applicant is respectfully suggested to carefully review these references.

10 II. Any inquiry concerning this communication or earlier communications from the examiner should be directed to *Ahshik Kim* whose telephone number is (571)272-2393. The examiner can normally be reached between the hours of 6:00AM to 3:00PM Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee, can be reached on (571)272-2398. The fax number directly to the
15 Examiner is (571)273-2393. The fax phone number for this Group is (703)872-9306.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [ahshik.kim@uspto.gov].

20 *All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.*

25 Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.



Ahshik Kim
Patent Examiner
Art Unit 2876
February 9, 2005